

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MONIQUE MARTINEZ,

Plaintiff,

v.

CIV 11-0576 LAM/KBM

MANUEL MELENDREZ,

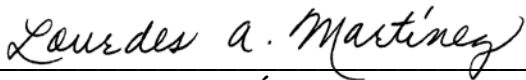
Defendant.

**ORDER DENYING AS MOOT DEFENDANTS' MOTION
TO DISMISS PLAINTIFF'S THIRD-PARTY UNFAIR CLAIMS
PRACTICES CLAIM**

THIS MATTER is before the Court on *Defendants' Motion to Dismiss Plaintiff's Third-Party Unfair Claims Practices Claim Under the New Mexico Insurance Code* (Doc. 8), filed July 5, 2011. Plaintiff has not filed a response to the motion and the deadline for doing so has passed, which constitutes consent to grant the motion. See D. N.M. LR-Civ. 7.1(b) ("The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion."). On July 22, 2011, the parties filed a ***Rule 41 Stipulated Dismissal of Unfair Insurance Practices Claim*** (Doc. 14), stating that the parties "stipulate to the dismissal without prejudice of Plaintiff's claim against Metropolitan Property and Casualty Insurance Company a/k/a MetLife Auto and Home for unfair settlement practices." Because Defendant Metropolitan Property and Casualty Insurance Company has thus been dismissed from this case, the Court **FINDS** that Defendants' motion to dismiss Plaintiff's claim against Defendant Metropolitan Property and Casualty Insurance Company should be **DENIED as moot.**

IT IS THEREFORE ORDERED that *Defendants' Motion to Dismiss Plaintiff's Third-Party Unfair Claims Practices Claim Under the New Mexico Insurance Code* (Doc. 8) is **DENIED** as moot.

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE
Presiding by Consent